

Call to Order:

The meeting was called to order at 7:37 p.m. Present were Chair, Joan Duff, members Vincent Chiozzi, Jay Doherty, Eric Macaux, Lelani Loder, and associate member Zach Bergeron; also present was Jacki Byerley, Town Planner.

Ferry Crossing – 289 River Road:

Ms. Duff opened the public hearings on an application by 289 River Road LLC for a Definitive Subdivision Plan, a Special Permit for Cluster Development and a Special Permit for Earth Movement for Ferry Crossing, a proposed subdivision located at 289 River Road.

Ms. Byerley informed the Board that the applicant had submitted this as a preliminary plan in September. That plan was denied by the Board in a non-binding decision because the plan did not meet all of the requirements of a subdivision. An interdepartmental review was held and most departments gave comments that they would like addressed. A peer review of the drainage was also performed by the ESS Group.

The Building Division is questioning Lots 5 and 6 for contiguous area due to a wetland that crosses between the lots. Verification is needed that the cluster design requirement of 29,040 s.f. of land is being met. The Conservation division confirmed that a Notice of Intent has been filed and a peer review of the drainage will be coordinated with Planning. The Police Department stated that some vegetation at the entrance may need to be removed for sight distance. The Health Department confirmed the applicant has applied for a Special Permit for the force mains. The DPW has a list of 28 items that the applicant is working to address. The Planning division requested a chart to break down the lot areas and frontage. One requirement for a Cluster Special Permit is for the applicant to provide a plan with a non-cluster layout. The areas on the cluster layout and the non-cluster layout do not match. The non-cluster layout is stated as 12.88 acres and the cluster is stated as 11.88 acres. There will be a footbridge from Lot 3 to Open Space 2, but the plan also needs to show how Open Space 1 will be accessed. The plan needs to list proposed street trees and show a 75 ft sight triangle which will determine what vegetation needs to be removed. There is a note on the plan requesting a waiver for sidewalk construction, but the applicant has not submitted a written request. The area of HOA 1 which is shown as the drainage area may need to be expanded to allow access for maintenance vehicles. This could be done over an easement or an expansion of the parcel itself. More information is needed on how the developer will ensure the infiltration trenches will be constructed and maintained properly.

Steve Stapinski of Merrimack Engineering, representing the applicant reviewed the Plan. He informed the Board that the site is bound by AVIS land to the north along the Merrimack River, lots on Furnari Farm Lane to the east, lots on Peterof Circle to the west and River Road to the south. He has been working with AVIS to define an area for open space to supplement and provide better access to the existing AVIS land. The street will be 455 ft long terminating in a cul-de-sac. Town water will be extended from River Road to the site to service the six homes and will be looped over Furnari Farm Lane through an easement. The looping will increase the flow and pressure to Furnari Farm Lane. The Town sewer currently ends at the intersection of River Road and Cross Street. The gravity sewer will be extended down River Road to the start of the roadway so the Town can sewer homes to the west of the site and homes on River Road between the site and Cross Street could connect in to sewer. The houses in the subdivision

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cannot be gravity sewered so there will be an ejector pump on each lot with a force main running alongside the roadway out to River Road. The plan is before the Board of Health because the Town does not allow for force mains in easements without a Special Permit. The Board of Health has approved the subdivision plan but the force main issue has been continued to their next meeting because they are suggesting one force main instead of six. The Town Engineer has requested that the subdivision not have a detention pond. Instead, stormwater from the street will flow into catchbasins where it will be treated in a stormceptor and discharged to an infiltration section in the back of the property. ESS Group has suggested changes to the plan that can eliminate the infiltration trenches while not increasing the runoff. All runoff from the site flows down gradient towards the river and the wetlands.

In regards to the open space, AVIS will improve the trail from the end of the cul-de-sac to a bridge near Lot 3 that will provide access to the AVIS land. The bridge will be made up of 2 planks laid on sleepers. Access to Open Space 1 will be through an existing AVIS trail connected to Open Space 2. A NOI has been filed with the Conservation Commission with a hearing set for June 18th. The wetland delineation and the floodplain line have been accepted by Conservation. There will be no work performed in the 25 ft no disturb area and no house will be built within the 50 ft no build area. Waivers will be requested from Conservation to construct the plank bridge and remove some trees from the wetland. The Town Engineer has asked for a catch basin to be placed before the roadway and for the drain line to be run to the culvert that comes from the wetlands on Cobblestone Lane. A sewer manhole will be moved down River Road to accommodate a future sewer main in Furnari Farm Lane. The subdivision will have an HOA which will be responsible for maintenance of roof drains, leeching pits and the sewer force main. They are working to address all other comments from the departments.

Mr. Doherty asked if the HOA would be responsible for maintaining the plank bridge. Mr. Stapinski answered that AVIS would be responsible if they get the open space. The design of the bridge will be similar to the crossings that the Boy Scouts design and build for their Eagle Scout projects. Mr. Macaux asked if the trail will be maintained by AVIS. Mr. Stapinski answered that that it will be entirely on AVIS land, and AVIS was involved in the process of drawing the boundary lines. AVIS wanted access from the street, not running through an abutter's property.

Ms. Loder questioned why Lot A is listed in ESS' report. Mr. Stapinski stated that Lot A is not part of the subdivision, but the peer reviewer suggested that the house to be built on that lot should be included in the stormwater calculations, because it will increase drainage runoff. That lot had been included in the submitted calculations, which is why the area was listed as 12.88 acres instead of 11.88 acres. Ms. Loder asked if the large infiltration system within Lot A mentioned in the peer review letter was replaced by the trench in Lot 3. Mr. Stapinski answered that there is no infiltration trench on Lot A, there is one in the separate HOA lot, so he does not know why the peer reviewer refers to one in Lot A. Any detention pond or infiltration trench has to be on a separate lot per Andover subdivision regulations.

Judy Monarca of 3 Peterof Circle and also the owner of 303 River Road asked for the brook and the placement of the proposed houses to be pointed out on the plan. Mr. Stapinski pointed out the stream running from River Road through the wetland. He stated this stream is intermittent,

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and does not run year round. He also pointed out a second stream in the wetland. He showed that the houses will be to the right of the stream from River Road. Ms. Monarca asked if any trees would be cut. Mr. Stapinski stated that Sheets 10 and 11 of the plan show the limit of work, which will be more defined for the Conservation hearing. He pointed out the 25 ft no disturb line which will be the limit of the clearing. He also pointed out the wooded buffers planned for between the lots and Furnari Farm Lane. Trees will need to be cut to clear the tires from the wetland and wildflowers will be planted in their place. Ms. Monarca asked about the area on the left of the plan which abuts her property and she was told that it will be open space given to AVIS so that the AVIS land can be contiguous across.

James Grieve of 4 Peterof Circle asked what would happen if AVIS did not want to accept the land, and questioned if anyone would ever be able to build there. Ms. Byerley explained that part of the cluster development requirements is that open space has to be given to either to the Conservation Commission, AVIS or a nonprofit entity created to preserve this land as open space. Mr. Stapinski added that AVIS has sent a letter stating their willingness to accept the land. Mr. Grieve asked if the plan shows the land that currently has an easement to access the AVIS land. Mr. Stapinski answered that it does.

Ms. Byerley informed the Board that the plan will need another review by the ESS Group and further items need to be addressed. Ms. Byerley suggested the Board continue the hearing until July 16th and asked that the applicant grant the Board a time extension on the decision deadline which is August 10th. Mr. Stapinski stated that he would sign the time extension tonight.

On a motion by Mr. Macaux, seconded by Mr. Doherty, the Board moved to continue the public hearings for a Definitive Subdivision, Special Permit for Cluster Development and Special Permit for Earth Movement until July 16th at 7:30 pm. **Vote:** Unanimous (5-0).

Trinity Court:

Ms. Duff opened the public hearings that were continued from the April 23rd meeting on an application by Andover Greenwood LLC for a Modification of a Definitive Subdivision, Modification of a Special Permit for Earth Movement, Modification of a Special Permit for Disturbance of Slopes in Excess of 35% and Modification of a Special Permit Watershed Protection Overlay District for Trinity Court.

Ms. Byerley informed the Board the open items from the previous meeting are the water main and the hydrant location changes. Both the water department and the Fire Department have approved the plan as acceptable. The Board was given as handouts two letters that were received by the Planning division this afternoon, one from John Paulson dated June 10th written on behalf of the Schneider property, and one from the Navin Patel of the Prime Group dated June 11th.

Jason Panos of Kopelman and Paige, representing the applicant informed the Board that he was here to answer any questions they may have, but he did not have any new information to provide.

Scott Schneider of 171 Greenwood Road stated that he had just received the most recent document from Kopelman and Paige today and has forwarded it to his attorney. He asked the

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Board for more time to be able to review the document and address it. Ms. Duff asked Ms. Byerley what letter Mr. Schneider is referring to and she told her it was the letter regarding the creation of Parcels C, D, and E. Ms. Duff explained that a lot line dispute is not in the purview of the Planning Board, it needs to be worked out privately. The Board is aware of the problem but it cannot have any influence on it. Mr. Schneider stated the revisions to the plan that create Parcels C, D, and E give the Board authority over it. Ms. Duff explained that the only thing before the Board is a plan that was submitted by a certified surveyor.

Mr. Panos stated that the perimeter has not changed and that is what the Board is concerned about. The letter Mr. Schneider is referring to was submitted primarily to request the waivers and to keep the Board apprised of the lot line dispute. Mr. Panos stated that they want the dispute to be resolved and do not want to have to bother the Board with this issue ever again. Ms. Byerley stated that the creation of Parcels C, D and E are not any different from the creation of the HOA lot which is also not buildable.

Mr. Schneider asked if there was any opportunity for him to seek counsel prior to the Board's decision. Ms. Duff stated that the Board has all of the information that it needs to make a decision.

Mr. Bergeron asked if the perimeter could change if the C, D or E lots change hands. Mr. Panos answered that there was a possibility that it could. However, the conveyances of sliver lots will not affect anything in the design of the subdivision. Everything has been placed outside of the disputed area. There will be no zoning issues on Lot 4. Mr. Chiozzi clarified that if any of the sliver lots are conveyed to anyone it will not cause any of the subdivision lots to be non-conforming. Mr. Panos confirmed that statement. Mr. Macaux stated that the only thing before the Board is the subdivision, and the Board does not have the jurisdiction to take action on the Schneider lot unless it affects the subdivision.

Navin Patel of The Prime Group, the prior applicant to the project, questioned why the Board would grant any of the waivers. Ms. Byerley answered that there are valid reasons for the waiver requests including a contribution made to the general sidewalk fund in lieu of sidewalks in this subdivision. The water superintendent has specifically requested the water main looping waiver because this cross-country loop would provide no hydraulic benefit. Mr. Patel replied that he understands if these waivers will cause the Town to benefit in other ways, but he didn't understand the waiver of looping the water main because the Town would greatly benefit from it. Ms. Byerley answered that the water superintendent specifically requested this. Mr. Patel then questioned why they do not need to do a peer review on the modification. Ms. Byerley answered that the previously approved drainage calculations have been approved as still valid. Fred Ford of Cammett Engineering added that a peer review was performed at the request of the Conservation Commission in their determination as to whether this was an insignificant change.

On a motion by Mr. Macaux seconded by Mr. Doherty, the Board moved to close the public hearings for the Trinity Court Modification of Definitive Subdivision, Modification of Earth Movement Special Permit, Modification of Watershed Protection Overlay District and

Modification of Special Permit for Disturbance of Slopes in Excess of 35%. **Vote:** Unanimous (5-0).

Trinity Court Deliberations:

Ms. Byerley reviewed the conditional approval provided to the Board. These conditions are similar to the conditions set forth in the original approval, but they do not include the conditions that called for planting screening trees on the abutting property and the requirement for the easement for the sight distance on Greenwood Road. She recommends that this approval be issued to supersede all prior approvals.

On a motion by Mr. Macaux seconded by Mr. Doherty the Board moved that the Trinity Court Modification of a Definitive Subdivision Plan, Modification of an Earth Movement Special Permit, Modification of a Watershed Protection Overlay District Special Permit and Modification of a Special Permit for Disturbance of Slopes in Excess of 35% are in conformance with the Subdivision Control Law, the Rules and Regulations Governing the Subdivision of Land in the Town of Andover, the recommendations of the Board of Health and also complies with the applicable provisions of the Andover Zoning By-law. **Vote:** Unanimous (5-0).

On a motion by Mr. Macaux seconded by Mr. Doherty the Board moved to approve the following waivers as they are in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law:

Article XIII, Sec. VI.D – Sidewalks – the construction of the sidewalk be granted with the understanding an amount equal to the construction cost of the sidewalk shall be deposited into an account of the Town of Andover as allowed by Section VI.D.5.

Article XIII, Sec. VII.H.10 – To not loop the water main as the connection via a long cross country easement has no hydraulic benefit or effect on water quality within that area as stated in the memo from the Distribution Superintendent dated May 14, 2013. **Vote:** Unanimous (5-0).

On a motion by Mr. Macaux seconded by Mr. Doherty the Board moved to approve with conditions the applications for Modification of Definitive Subdivision Plan, Modification of Earth Movement Special Permit, Modification of Watershed Protection Overlay District and Modification of Special Permit for Disturbance of Slopes in Excess of 35% entitled “Trinity Court” with the 41 conditions noted in Jacki Byerley’s memo to the Board dated June 5, 2013. This approval with conditions will supersede the approvals from 2007 and reaffirmed in 2010. **Vote:** Unanimous (5-0).

Other Business:

Ms. Byerley informed the Board that the appeal period for the bond takings of Christian Way and Charles Circle have passed with no appeals filed. Ms. Byerley was informed by the bank holding the Charles Circle bond that the passbook account was taken by the IRS in 2008 without notification to the Town which physically holds the passbook. She will be meeting with Chris Cronin to found out what can be done to finish the road and get it accepted as a public way.

Adjournment: The meeting was adjourned at 9:17 p.m.